

BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION
STATE OF FLORIDA

INQUIRY CONCERNING A
JUDGE
NO.: 00-143

Florida Supreme Court
Case No.: SC00-2226

_____/

MOTION TO COMPEL

COMES NOW Respondent, the Honorable Cynthia A. Holloway, by and through her undersigned counsel, and files this Motion to Compel the production of all written statements and transcripts of testimony of witnesses who appeared before the Investigative Panel in Miami, Florida on June 8, 2001 and as grounds therefore would show:

1. The Investigative Panel of the Judicial Qualifications Commission met on June 8, 2001 in Miami, Florida to consider the Amended Notice of Investigation signed by the Honorable James R. Wolf, Chairman of the Judicial Qualifications Commission, on May 24, 2001.

2. As a result of the Investigative Panel's meeting on June 8, 2001, the JQC filed its Amended Notice of Formal Charges including in those charges, *inter alia*, allegations that Respondent acted improperly in the execution of a temporary injunction prohibiting the destruction of oak trees adjacent to a law office in Tampa, Florida. These allegations are set forth in paragraph 6 of the Amended Notice of Formal Charges.

3. Special Counsel has previously provided the investigator's summaries as to witnesses interviewed relating to other aspects of the Amended Notice of Investigation. However, Special Counsel has failed or refused to provide any investigative reports, statements, summaries, or other testimony of witnesses presented to the JQC resulting in the filing of formal charges in paragraph 6 relating to the destruction of the trees and the resulting temporary injunction.

4. Pursuant to Rule 12(b) of the Florida Judicial Qualifications Commission Rules, such statements, reports, summaries and transcripts are required to be disclosed by Special Counsel.

WHEREFORE and by reason of the foregoing, Respondent respectfully requests the Hearing Panel compel Special Counsel to provide copies of all reports, statements, summaries and transcripts upon which the Investigative Panel relied in charging Respondent with Charge Six of the Amended Notice of Formal Charges filed June 19, 2001.

Respectfully submitted,

SCOTT K. TOZIAN, ESQUIRE
SMITH & TOZIAN, P.A.
109 North Brush Street, Suite 150
Tampa, Florida 33602
(813) 273-0063
FL Bar# 253510
Attorneys for Respondent

Michael S. Rywant, Esquire
RYWANT, ALVAREZ, JONES,
RUSSO & GUYTON, P.A.
109 North Brush Street, Suite 500
P. O. Box 3283
Tampa, Florida 33601
(813) 229-7007
FL Bar# 240354
Attorneys for Respondent

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of August, 2001, the original of the foregoing Motion to Compel has been furnished by U.S. Mail to: Honorable Thomas D. Hall, Clerk, Supreme Court of Florida, 500 South Duval Street, Tallahassee, Florida 32399-1927 with copies by U.S. Mail to:

Beatrice A. Butchko, Esquire
Ferrell, Schultz, Carter, Zumpano & Fertel, P.A.
201 South Biscayne Boulevard
34th Floor
Miami, Florida 33131

John Beranek, Esquire
General Counsel
Ausley & McMullen
Washington Square Building
227 Calhoun Street
P. O. Box 391
Tallahassee, Florida 32302

Honorable James R. Jorgenson
Chair, Hearing Panel
Third District Court of Appeals
2001 S.W. 117th Avenue
Miami, Florida 33175-1716

Ms. Brooke Kennerly
Executive Director
Judicial Qualifications Commission
Room 102 - The Historic Capitol
Tallahassee, Florida 32399

SCOTT K. TOZIAN, ESQUIRE